

★ SEP 20 2018 ★

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

TATIANA HERDOCIA and ENA SCOTT,

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

**SOUTHERN GLAZER'S WINE & SPIRITS f/k/a
SOUTHERN WINE & SPIRITS OF AMERICA,
INC. and WINE, LIQUOR & DISTILLERY
WORKERS UNION, LOCAL 1D,**

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

**Complaint for Employment
Discrimination**

Case No. **CV-18 5284**

(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No **AZRACK, J.**
(check one) **LINDSAY, M.J.**

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Tatiana Herdocia
Street Address	153 E. Milton Street
City and County	Freeport, Nassau County
State and Zip Code	New York 11520
Telephone Number	_____
E-mail Address	_____

Name	Ena Scott
Street Address	22 Arlington Avenue
City and County	St. James, Suffolk County
State and Zip Code	New York 11791
Telephone Number	_____
E-mail Address	_____

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	Southern Glazer's Wine & Spirits
Job or Title (if known)	_____
Street Address	313 Underhill Blvd
City and County	Syosset, Nassau County
State and Zip Code	New York 11791
Telephone Number	(516) 921-9005
E-mail Address (if known)	_____

Defendant No. 2

Name	Wine, Liquor & Distillery Workers Union Local 1D
Job or Title (if known)	_____
Street Address	8402 18th Avenue
City and County	Brooklyn, Kings County
State and Zip Code	New York 11214
Telephone Number	(718) 331-2311
E-mail Address (if known)	_____

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is:

Name	Southern Glazer's Wine & Spirits
Street Address	313 Underhill Blvd
City and County	Syosset, Nassau County
State and Zip Code	New York 11791
Telephone Number	(516) 921-9005

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

- ☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Other federal law *(specify the federal law)*:

- ☒ Relevant state law *(specify, if known)*: **New York Human Rights Law**

- ☐ Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. The discriminatory conduct of which I complain in this action includes (*check all that apply*):

- TH ES ☒ Failure to hire ^{us} ~~me~~
- ☐ Termination of my employment.
- ☒ Failure to promote ~~me~~ ^{us} TH ES
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☐ Other acts (*specify*): _____

(*Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.*)

- B. It is my best recollection that the alleged discriminatory acts occurred on date(s)
July 2014 - present

- C. I believe that defendant(s) (*check one*):

- ☒ is/are still committing these acts against ^{us} ~~me~~.
- ☐ is/are not still committing these acts against me.

- D. Defendant(s) discriminated against me based on my (*check all that apply and explain*):

- ☐ race _____
- ☐ color _____
- ☒ gender/sex – **Not allowed to work overtime because we're**

female and filed a discrimination claim against them.

- ☐ religion _____
- ☐ national origin _____
- ☐ age. My year of birth is _____. *(Give your year of birth only if you are asserting a claim of age discrimination.)*
- ☐ disability or perceived disability *(specify disability)*

E. The facts of my case are as follows. Attach additional pages if needed.

PLEASE SEE ATTACHED COPY OF PLAINTIFFS' EEOC CHARGE

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

July 26, 2017

B. The Equal Employment Opportunity Commission *(check one)*:

- ☐ has not issued a Notice of Right to Sue letter.
- ☒ issued a Notice of Right to Sue letter, which I received on *(date)*

July 2, 2018.

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

- ☐ 60 days or more have elapsed.
☐ less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Lost wages, lost overtime, emotional damages, costs and disbursements related to this lawsuit, and any other relief the Court deems proper.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____, 20__.

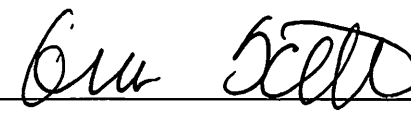
Signature of Plaintiff

Printed Name of Plaintiff


TATIANA HERDOCIA

Signature of Plaintiff

Printed Name of Plaintiff


ENA SCOTT

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented to: Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

New York State Division of Human Rights and EEOC

State or local Agency, if any

Name (indicate Mr. Ms. Mrs.)

Ms. Tatiana Herdocia

Home Phone (Incl. Area Code)

(516) 406-5072

Date of Birth

10-26-78

Street Address

153 E. Milton Street, Freeport, New York 11520

City, State and ZIP Code 516-545-5044

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

Southern Glazer's Wine & Spirits

No. Employees, Members

100+

Phone No. (Include Area Code)

(516) 921-9005

Street Address

313 Underhill Blvd., Syosset, New York 11791

City, State and ZIP Code

Name

Wine, Liquor & Distillery Workers Union, Local 1D

No. Employees, Members

50+

Phone No. (Include Area Code)

(718) 331-2311

Street Address

8402 18th Avenue, Brooklyn, New York 11214

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

July 2014

May 2017

☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)):

See Attached Affidavit

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Jose Gabriel Santiago

Notary Public

No. 02SA6223489

State of New York

Qualified in Suffolk County

My Commission Expires June 14, 2014

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

No. 02SA6223489

State of New York

Qualified in Suffolk County

My Commission Expires June 14, 2014

7/19/17

Date

Tatiana Herdocia

Charging Party Signature

Jose Gabriel Santiago

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

No. 02SA6223489

State of New York

Qualified in Suffolk County

My Commission Expires June 14, 2014

7/19/2017

**UNITED STATES OF AMERICA
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

-----X
TATIANA HERDOCIA,

Complainant,

- against-

**EEOC
AFFIDAVIT**

SOUTHERN WINE & SPIRITS OF AMERICA, INC.
and WINE, LIQUOR & DISTILLERY WORKERS
UNION, LOCAL 1D,

Respondent(s).

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

TATIANA HERDOCIA, being duly sworn, deposes and says:

1. I am the Complainant in this matter, and I submit this affidavit in support of my charge of discrimination against SOUTHERN WINE & SPIRITS OF AMERICA, INC (hereinafter "SOUTHERN") and WINE, LIQUOR & DISTILLERY WORKERS UNION, LOCAL 1D (hereinafter "LOCAL 1D") for Respondents' discrimination and retaliation against me because of my sex and for complaining of sex discrimination under Title VII.
2. I currently reside at 153 E. Milton Street, Freeport, New York 11520.
3. Respondent SOUTHERN is a wine and spirits distributor operating in thirty-five (35) states with its principal place of business located at 1600 NW 163rd Street, Miami, Florida 33169. SOUTHERN also maintains a New York local office at 313 Underhill Blvd., Syosset, New York 11791.

4. Respondent Local 1D is the duly recognized and bargaining agent of employees, including myself, within the bargaining unit defined by the applicable collective bargaining agreement ("CBA") existing between SOUTHERN and LOCAL 1D.
5. I have been working for SOUTHERN since in or around January 2008 as a warehouse inventory control clerk. In or around November 2008, I and my coworkers submitted paperwork to join Local 1D since my job duties were substantially similar to those performed by my male unionized coworkers. The job duties included, in part, checking product and operating heavy machinery on a daily basis in the warehouse.
6. I became a member of Local 1D in or around December 2008.
7. In or around 2014, my coworker, Ena, and I felt that we were being treated differently than our male warehouse coworkers because of our sex with regards to our opportunity to earn overtime.
8. On or about May 22, 2014, Ena and I filed a complaint in federal court alleging sex discrimination and violations of the Equal Pay Act; the case was filed in the Eastern District of New York, Case No. 14-CV-3196 (JMA)(ARL).
9. Although Ena and I felt that we had a strong case against SOUTHERN and LOCAL 1D, we decided to voluntarily dismiss that case for strategic reasons on or around May 19, 2017.
10. From the time we filed the complaint until now, SOUTHERN and LOCAL 1D have continued a pattern and practice of retaliating against Ena and me.
11. For example, on multiple occasions, Ena and I were denied the opportunity to work overtime even our male coworkers in the warehouse were allowed to work the overtime.

12. When we requested the overtime and equal treatment, we were told that if we wanted to be considered the same as the men we would have to work the night shift and throw boxes.
13. Ena and I always responded that we would be willing to work the night shift and throw boxes; however, we were always denied this request.
14. In or around September 2016, SOUTHERN had posted a job opening in its website for a warehouse checkers position.
15. Although Ena and I believe that we already warehouse workers, we decided to apply for the checkers position.
16. In late September 2016, while our case was still pending, Frank Cognetti – the head of our union – and our assistant shop steward, Troy Golding, held a meeting discussing employment benefits. In addition to Ena and me, the meeting was attended by approximately 40 other male warehouse workers.
17. Just before the meeting, Ena and I approached Troy Golding and advised him that we wanted to apply for the checkers position and were approaching him to make sure that our pending case wasn't going to be an issue.
18. He asked us how we knew they were hiring a checker. We told him that we saw the posting on the website and that Chris Fightmaster (a warehouse checker) told us that SOUTHERN was hiring checkers.
19. During the meeting Troy Golding asked Frank Cognetti if Ena and I were allowed to apply for the position. Frank Cognetti replied that Troy should "not get involved with us because we are in a sensitive situation" because of our pending case.
20. Soon thereafter SOUTHERN removed the job posting from its website.

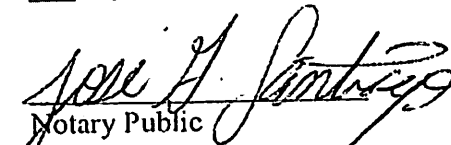
21. In or around November 2016, SOUTHERN hired Raul (male) to work in our department as a warehouse inventory control clerk.
22. In just his first week on the job, he was allowed to work directly with the warehouse men and throw boxes, even though we had constantly been denied that opportunity.
23. Both Raul and Carlos (another male coworker in our department) have been asked on multiple occasions by warehouse managers to leave the inventory control clerk department and work with them in the warehouse. Ena and I were never asked to do the same, or given the opportunity to apply.
24. On or about January 23, 2017, Ena and I were written up for an allegedly violating safety rules and regulations.
25. According to the write-up, I violated the safety rules and regulations because Ena was “seen on video driving [a picker] with [me] as a passenger.”
26. Although our CBA dictates that a first offense of this sort should be responded to with a verbal warning, SOUTHERN skipped the verbal warning and issued us a written warning – the second level discipline of the progressive discipline policy.
27. In addition, since we have been employed at SOUTHERN, male warehouse coworkers constantly drive the pickers while allowing another coworker to accompany him as a passenger. None of our male coworkers were ever written up for violating this rule.
28. On or about April 6, 2017, Ena and I were invited to a voluntary Safety Committee meeting. Although we had missed the first meeting in March 2017, we were assured by Mike Munoz (Safety Director) and Ronnie (LOCAL 1D shop steward) that we could attend.
29. The meeting took place during our lunch break.

30. Also in attendance at the meeting were John Wilkinson (Warehouse Operations Manager) and Kevin Randall (VP of Operations).
31. When Kevin Randall walked into the meeting and saw we were in attendance, he gave us a nasty look and then waived his hands at us to come to him. He then told us in front of everyone in attendance that we were not allowed at the meeting and that we should be working. He embarrassed and humiliated us in front of many of our coworkers.
32. He later claimed that the reason he asked us to leave was because we had missed the first meeting; however, there were other male coworkers that had missed the first meeting (and had not complained of discrimination) who were not asked to leave the meeting.
33. On April 13, 2017, one of the warehouse managers (Pete) approached Ena and me to discuss our weekly "toolbox" meeting. One of the other managers, Maria Suarez, instructed him that he could not talk to us because we are not warehouse.
34. In May 2017, SOUTHERN held a third voluntary Safety Committee meeting. We did not attend because we were told the meeting was "closed" to new attendees even though other male coworkers were allowed to attend the second and third meeting even though they did not attend the first meeting.
35. During the committee meeting, Ronnie (LOCLA 1D shop steward) adamantly advised the meeting attendees that Ena Scot and I were seen hanging location signs in the warehouse, that we should not have been hanging the signs because that is "warehouse" work and that we should not even physically be in the warehouse unless we were cycle counting. Our job responsibilities require us to be in the warehouse our entire shift and even if they did not, we do not have a workplace outside of the warehouse that we could go to anyway.

36. Based on the above, SOUTHERN and LOCAL 1D have discriminated against me because of my sex and retaliated against me because of my prior complaints of discrimination.
37. Respondents' discriminatory behavior has caused me to suffer humiliation, embarrassment, duress and loss of wages and other benefits.
38. Respondents' discriminatory behavior displays an ignorance of the requirements of TITLE XII and NYHRL, and is in reckless disregard for my protected rights.


TATIANA HERDOCIA

Sworn to before me this
19th day of July, 2017


Notary Public

Jose Gabriel Santiago
Notary Public
No. 02SA6223489
State of New York
Qualified in Suffolk County
My Commission Expires June 14, 2018

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented to: Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

New York State Division of Human Rights and EEOC

State or local Agency, if any

Name (indicate Mr. Ms. Mrs.)

Ms. Ena Scott

Home Phone (Incl. Area Code)

(631) 827-2582

Date of Birth

5/13/84

Street Address

City, State and ZIP Code

22 Arlington Avenue, St. James, New York 11780

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

Southern Glazer's Wine & Spirits

No. Employees, Members

100+

Phone No. (Include Area Code)

(516) 921-9005

Street Address

City, State and ZIP Code

313 Underhill Blvd., Syosset, New York 11791

Name

Wine, Liquor & Distillery Workers Union, Local 1D

No. Employees, Members

50+

Phone No. (Include Area Code)

(718) 331-2311

Street Address

City, State and ZIP Code

8402 18th Avenue, Brooklyn, New York 11214

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN

☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

July 2014

May 2017

☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)):

See Attached Affidavit

Jose Gabriel Santiago
Notary Public
No. 02SA6223489
State of New York
Qualified in Suffolk County
My Commission Expires June 14, 2018

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

Jose G. Santiago

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Ena G. Scott

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

7/19/2017

7/19/17
Date

Ena G. Scott
Charging Party Signature

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

-----X
ENA SCOTT,

Complainant,

- against-

**EEOC
AFFIDAVIT**

SOUTHERN GLAZER'S WINE & SPIRITS
f/k/a SOUTHERN WINE & SPIRITS OF AMERICA,
INC. and WINE, LIQUOR & DISTILLERY
WORKERS UNION, LOCAL 1D,

Respondent(s).

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

ENA SCOTT, being duly sworn, deposes and says:

1. I am the Complainant in this matter, and I submit this affidavit in support of my charge of discrimination against SOUTHERN GLAZER'S WINE & SPIRITS f/k/a SOUTHERN WINE & SPIRITS OF AMERICA, INC. (hereinafter "SOUTHERN") and WINE, LIQUOR & DISTILLERY WORKERS UNION, LOCAL 1D (hereinafter "LOCAL 1D") for Respondents' discrimination and retaliation against me because of my sex and for complaining of sex discrimination under Title VII.
2. I currently reside at 22 Arlington Avenue, St. James, New York 11780.
3. Respondent SOUTHERN is a wine and spirits distributor operating in thirty-five (35) states with its principal place of business located at 1600 NW 163rd Street, Miami, Florida 33169. SOUTHERN also maintains a New York local office at 313 Underhill Blvd., Syosset, New York 11791.

4. Respondent Local 1D is the duly recognized and bargaining agent of employees, including myself, within the bargaining unit defined by the applicable collective bargaining agreement ("CBA") existing between SOUTHERN and LOCAL 1D.
5. I have been working for SOUTHERN since in or around January 2008 as a warehouse inventory control clerk. In or around November 2008, I and my coworkers submitted paperwork to join Local 1D since my job duties were substantially similar to those performed by my male unionized coworkers. The job duties included, in part, checking product and operating heavy machinery on a daily basis in the warehouse.
6. I became a member of Local 1D in or around December 2008.
7. In or around 2014, my coworker, Tatiana Herdocia, and I felt that we were being treated differently than our male warehouse coworkers because of our sex with regards to our opportunity to earn overtime.
8. On or about May 22, 2014, Tatiana and I filed a complaint in federal court alleging sex discrimination and violations of the Equal Pay Act; the case was filed in the Eastern District of New York, Case No. 14-CV-3196 (JMA)(ARL).
9. Although Tatiana and I felt that we had a strong case against SOUTHERN and LOCAL 1D, we decided to voluntarily dismiss that case for strategic reasons on or around May 19, 2017.
10. From the time we filed the complaint until now, SOUTHERN and LOCAL 1D have continued a continued pattern and practice of retaliating against Tatiana and me.
11. For example, on multiple occasions, Tatiana and I were denied the opportunity to work overtime even though our male coworkers in the warehouse were allowed to work the overtime.

12. When we requested the overtime and equal treatment, we were told that if we wanted to be considered the same as the men we would have to work the night shift and throw boxes.
13. Tatiana and I always responded that we would be willing to work the night shift and throw boxes; however, we were always denied this request.
14. In or around September 2016, SOUTHERN had posted a job opening in its website for a warehouse checkers position.
15. Although Tatiana and I believe that we already warehouse workers, we decided to apply for the checkers position.
16. In late September 2016, while our case was still pending, Frank Cagnetti – the head of our union – and our assistant shop steward, Troy Golding, held a meeting discussing employment benefits. In addition to Tatiana and me, the meeting was attended by approximately 40 other male warehouse workers.
17. Just before the meeting, Tatiana and I approached Troy Golding and advised him that we wanted to apply for the checkers position and were approaching him to make sure that our pending case wasn't going to be an issue.
18. He asked us how we knew they were hiring a checker. We told him that we saw the posting on the website and that Chris Fightmaster (a warehouse checker) told us that SOUTHERN was hiring checkers.
19. During the meeting Troy Golding asked Frank Cagnetti if Tatiana and I were allowed to apply for the position. Frank Cagnetti replied that Troy should "not get involved with us because we are in a sensitive situation" because of our pending case.
20. Soon thereafter SOUTHERN removed the job posting from its website.

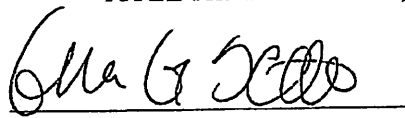
21. In or around November 2016, SOUTHERN hired Raul (male) to work in our department as a warehouse inventory control clerk.
22. In just his first week on the job, he was allowed to work directly with the warehouse men and throw boxes, even though we had constantly been denied that opportunity.
23. Both Raul and Carlos (another male coworker in our department) have been asked on multiple occasions by warehouse managers to leave the inventory control clerk department and work with them in the warehouse. Tatiana and I were never asked to do the same, nor given the opportunity to apply.
24. On or about January 23, 2017, Tatiana and I were written up for an allegedly violating safety rules and regulations.
25. According to the write-up, I violated the safety rules and regulations because I was "seen on video driving [a picker] with [Tatiana] as a passenger."
26. Although our CBA dictates that a first offense of this sort should be responded to with a verbal warning, SOUTHERN skipped the verbal warning and issued us a written warning – the second level discipline of the progressive discipline policy.
27. In addition, since we have been employed at SOUTHERN, male warehouse coworkers constantly drive the pickers while allowing another coworker to accompany him as a passenger. None of our male coworkers were ever written up for violating this rule.
28. On or about April 6, 2017, Tatiana and I were invited to a voluntary Safety Committee meeting. Although we had missed the first meeting in March 2017, we were assured by Mike Munoz (Safety Director) and Ronnie (LOCAL 1D shop steward) that we could attend.
29. The meeting took place during our lunch break.

30. Also in attendance at the meeting were John Wilkinson (Warehouse Operations Manager) and Kevin Randall (VP of Operations).
31. When Kevin Randall walked into the meeting and saw we were in attendance, he gave us a nasty look and then waived his hands at us to come to him. He then told us in front of everyone in attendance that we were not allowed at the meeting and that we should be working. He embarrassed and humiliated us in front of many of our coworkers.
32. He later claimed that the reason he asked us to leave was because we had missed the first meeting; however, there were other male coworkers that had missed the first meeting (and had not complained of discrimination) who were not asked to leave the meeting.
33. On April 13, 2017, one of the warehouse managers (Pete) approached Tatiana and me to discuss our weekly "toolbox" meeting. One of the other managers, Maria Suarez, instructed him that he could not talk to us because we are not warehouse.
34. In May 2017, SOUTHERN held a third voluntary Safety Committee meeting. We did not attend because we were told the meeting was "closed" to new attendees even though other male coworkers were allowed to attend the second and third meeting even though they did not attend the first meeting.
35. During the committee meeting, Ronnie (LOCLA 1D shop steward) adamantly advised the meeting attendees that Tatiana and I were seen hanging location signs in the warehouse, that we should not have been hanging the signs because that is "warehouse" work and that we should not even physically be in the warehouse unless we were cycle counting. Our job responsibilities require us to be in the warehouse our entire shift and even if they did not, we do not have a workplace outside of the warehouse that we could go to anyway.

36. Based on the above, SOUTHERN and LOCAL 1D have discriminated against me because of my sex and retaliated against me because of my prior complaints of discrimination.

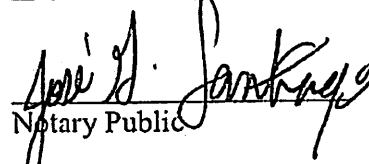
37. Respondents' discriminatory behavior has caused me to suffer humiliation, embarrassment, duress and loss of wages and other benefits.

38. Respondents' discriminatory behavior displays an ignorance of the requirements of TITLE XII and NYHRL, and is in reckless disregard for my protected rights.



ENA SCOTT

Sworn to before me this
19th day of July, 2017



Notary Public

Jose Gabriel Santiago
Notary Public
No. 02SA6223489
State of New York
Qualified in Suffolk County
My Commission Expires June 14, 2018



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Boston Area Office

John F. Kennedy Federal Building
Government Center, Room 475
Boston, MA 02203-0506
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Boston Status Line: (866) 408-8075
Boston Direct Dial: (617) 565-4805
TTY (617) 565-3204
FAX (617) 565-3196

Ena Scott
22 Arlington Ave.
St. James, NY 11780

RE: Charge No: 520-2017-03240 Scott v. Southern Glazer's Wine & Spirits of NY, LLC
(herein referred to as the Respondent)

Dear Ms. Scott:

The United States Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") has reviewed the above referenced charge according to our charge prioritization procedures, which are based on a reallocation of the Commission's staff resources, apply to all open charges in our inventory and call for us to focus our limited resources on those cases that are most likely to result in findings of violations of the laws we enforce.

In accordance with these procedures, we have examined your charge that was submitted to the Commission on or about July 19, 2017. You allege you were subjected to employment discrimination and retaliation for reasons related to your gender (female), in violation of Title VII of the Civil Rights Act of 1964, as amended.

Based upon a review of the documents received, the Commission is unable to conclude that the information establishes a violation of Federal law on the part of Respondent. This does not certify that Respondent is in compliance with the statutes. No finding is made as to any other issue that might be construed as having been raised by this charge.

The Commission's processing of this charge has been concluded. Included with this letter is your Notice of Dismissal and Right to Sue. Following this dismissal, you may only pursue this matter by filing suit against the Respondent named in the charge within 90 days of receipt of said notice. Otherwise, your right to sue will be lost.

Please contact Enforcement Supervisor Anthony Pino at (617) 565-3192, if you have any questions.

On Behalf of the commission:

JUN 27 2018

Date

Feng K. An
Area Director, Boston Office

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Ena Scott**
22 Arlington Ave.
Saint James, NY 11780

From: **Boston Area Office**
John F. Kennedy Fed Bldg
Government Ctr, Room 475
Boston, MA 02203

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2017-03240

Edward J. Ostolski,
Investigator

(617) 565-3214**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**
☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission

Kenneth An

Feng K. An,
Area Office Director

JUN 27 2018

(Date Mailed)

Enclosures(s)

cc:

Lauren E. Mutti, Esq.
SOUTHERN GLAZER'S WINE & SPIRITS
14911 Quorum Dr., Suite 150
Dallas, TX 75254

Jose G. Santiago, Esq.
MCLAUGHLIN & STERN, LLP
1010 Northern Blvd. Suite 400
Great Neck, NY 11021